IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA VALDOSTA DIVISION

LARRY REEVES :

Plaintiff, :

v. : Civil Action No. : 7:08-CV-131-HL

THOMAS COUNTY, GEORGIA :

•

Defendant.

:

ORDER

Plaintiff has filed a Motion for Default Judgment (Doc. 5) because Defendant Thomas County, Georgia never filed an Answer to Plaintiff's Complaint (Doc. 1). Plaintiff's Complaint was filed on October 10, 2008, and Plaintiff served Defendant with process on November 3, 2008, by delivering a copy of the Summons and Complaint to Josh Herring, Chairman of the Thomas County Board of Commissioners. On January 6, 2009, the Clerk of Court made an entry of default against Defendant for failing to respond to Plaintiff's Complaint. Plaintiff now seeks a default judgment against Defendant and requests a jury trial to determine Plaintiff's damages. Plaintiff did not provide notice to Defendant of its Motion for Default Judgment.

Federal Rule of Civil Procedure 55 provides that a party seeking a default judgment must serve the defaulting party with written notice of any application for

default judgment if the defaulting party has appeared in the action. Fed. R. Civ. P.

55(b)(2). Although the moving party is not required to provide notice to a party who

has not appeared, Zuelzke Tool & Eng'g Co. v. Anderson Die Castings, Inc., 925

F.2d 226, 230-31 (7th Cir. 1991), district courts have the discretion to order notice

to parties who have not appeared, 10 Moore's Fed. Practice § 55.33[1], at 55-53 (3d

ed. 2008).

Here, Defendant has not appeared in this action, and therefore, Plaintiff is not

required to provide it with notice of its Motion for Default Judgment. Nevertheless,

the Court finds that the ends of justice would best be served if Defendant was

provided with notice of Plaintiff's Motion. As a result, Plaintiff is hereby ordered to

serve this Motion and Order on Defendant no later than May 15, 2009. Service shall

be perfected in accordance with Federal Rule of Civil Procedure 4. Once service

has been perfected, Plaintiff shall file with this Court proof of service. Defendant

shall have twenty (20) days from the date of service to respond to this Motion. If no

response is filed, this Court will schedule a jury trial on the issue of damages and

enter a default judgment against Defendant. If Defendant files a response, the Court

will take this matter under advisement.

SO ORDERED, this the 15th day of April, 2009.

<u>s/ Hugh Lawson</u> HUGH LAWSON, JUDGE

dhc

2